

REMARKS

Claims 1, 3-6, 13 and 16-32 are pending in the application, with claims 1, 13, 17 and 25 being independent.

Claims 1, 3-6, 13, 16, 24-30 and 32 are allowed.

Claims 17-23 and 31 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17-23 and 31 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 17-23 and 31 are rejected under 35 U.S.C. §102(e) as being anticipated by Nataranjan et al. (US 7,293,106, hereinafter Nataranjan).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or are simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from

known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., simply to avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting, no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. §112

Claims 17-23 and 31 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is amended to address the Examiner's objection. As such, independent claim 17 is allowable under 35 U.S.C. §112, ¶2. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is allowable under 35 U.S.C. §112. Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. §101

Claims 17-23 and 31 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claim 17 is amended to recite:

“a plurality of network elements interconnected to form a communication network and configured to support at least one established communication path in the communication network”

The added limitation narrows the claim to cover only statutory embodiments patentable under 35 U.S.C. § 101. As such, independent claim 17 is allowable under 35 U.S.C. §101. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is allowable under 35 U.S.C. §101. Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. §102(e)

Claims 17-23 and 31 are rejected under 35 U.S.C. §102(e) as being anticipated by Natarajan. The rejection is traversed.

According to MPEP §2131.03 (III) “Anticipation under §102 can be found only when the reference discloses exactly what is claimed and that where there are differences between the reference disclosure and the claim, the rejection must be based on §103 which takes differences into account. (emphasis added).

Natarajan does not seem to disclose the claimed network analysis engine module and its related functions with the specificity required under §102. As such, independent claim 17 is allowable under 35 U.S.C. §102(e) over Natarajan. Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable under 35 U.S.C. §102(e) over Natarajan. Therefore, the rejection should be withdrawn.

Allowable Subject Matter

Claims 1, 3-6, 13, 16, 24-30 and 32

Applicant thanks the Examiner for the allowance of claims 1, 3-6, 13, 16, 24-30 and 32. Applicant further submits that in view of Applicant's amendments above, the remaining claims are also allowable.

Applicant believes that the record of the prosecution as a whole, including Applicant's specification and claims, provides additional reasons for allowance. The Examiner's Reasons for Allowance do not necessarily state all the reasons for allowance or all the details why the claims are allowed and, therefore, should not be used to interpret the scope of the claims in place of the record of the prosecution as a whole.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 542-2280 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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